

## **IC 20-35-5**

### **Chapter 5. Special Education Cooperatives**

#### **IC 20-35-5-1**

##### **Definitions**

Sec. 1. The definitions in this section apply throughout this chapter.

(1) "Agreement" means an:

(A) identical resolution adopted by the governing body of each participating school corporation or the governing board of a participating charter school; or

(B) agreement approved by the governing body of each participating school corporation or the governing board of a participating charter school;

providing for a special education cooperative.

(2) "Assessed valuation" of a participating school corporation for a school year means the net assessed valuation of the school corporation for the immediately preceding March 1, adjusted in the same manner as any adjustment is made in determining the amount of state distribution for school support.

(3) "Board of managers" means the board or commission charged with the responsibility of administering the affairs of a special education cooperative.

(4) "Governing body" of a participating school corporation or charter school means the board or commission charged by law with the responsibility of administering the affairs of the school corporation or charter school. In the case of a school township, the term means the township trustee and township board.

(5) "Participating school corporation" means a local public school corporation that:

(A) is established under Indiana law; and

(B) cooperates with other school corporations or charter schools in a special education cooperative.

(6) "Participating charter school" means a charter school that is established under Indiana law and cooperates with other school corporations or charter schools in a special education cooperative.

(7) "Percentage share" of a participating school corporation is the percent that its assessed valuation bears to the total assessed valuation of all the participating school corporations joining in an agreement.

(8) "Special education cooperative" means a department, school, charter school, or school corporation established, maintained, and supervised for the education of children with disabilities in accordance with this section.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.3.*

#### **IC 20-35-5-2**

##### **Formation of special education cooperative**

Sec. 2. A participating school corporation or charter school,

together with one (1) or more participating school corporations or charter schools, may form a special education cooperative in accordance with the provisions of either sections 13 through 15 of this chapter or section 16 of this chapter, but subject to the limitations of this section and sections 3 through 8 of this chapter, by adopting an agreement that contains the following provisions:

- (1) A plan for the organization, administration, and support for the special education cooperative, including the establishment of a board of managers.
- (2) The commencement date of the establishment of the special education cooperative, which must be contemporaneous with the beginning of a school year.
- (3) The extension of the special education cooperative for at least five (5) school years and a provision that the special education cooperative will extend from school year to school year after the five (5) year period unless the special education cooperative is terminated by action of the governing bodies or governing boards of a majority of the participating school corporations and participating charter schools that is taken at least one (1) year before termination of the agreement.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.4.*

### **IC 20-35-5-3**

#### **Modification of special education cooperative agreement**

Sec. 3. During the term of an agreement adopted under section 2 of this chapter, the agreement may be modified by unanimous consent of all the participating school corporations and charter schools.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.5.*

### **IC 20-35-5-4**

#### **Special education cooperative agreement terms**

Sec. 4. An agreement adopted under section 2 of this chapter may include the following:

- (1) An agreement to acquire sites, buildings, and equipment for the sites and buildings by:
  - (A) purchase;
  - (B) lease from any of the participating school corporations or charter schools for the term of the agreement; or
  - (C) lease under the provisions of IC 20-47-2 or IC 20-47-3.
- (2) An agreement to repair, equip, and maintain school buildings and equipment.
- (3) An agreement that participating school corporations may use funds from their respective capital projects fund to pay for the costs under subdivision (1) or (2) or for any other purposes authorized under IC 20-40-8.
- (4) An agreement with a charter school to exchange any consideration for special education services.

*As added by P.L.1-2005, SEC.19. Amended by P.L.2-2006, SEC.157; P.L.38-2014, SEC.6.*

#### **IC 20-35-5-5**

##### **Funding**

Sec. 5. The amount of money used from a participating school corporation's capital projects fund shall be determined by agreement among the participating school parties.

*As added by P.L.1-2005, SEC.19. Amended by P.L.2-2006, SEC.158; P.L.38-2014, SEC.7.*

#### **IC 20-35-5-6**

##### **Costs**

Sec. 6. The cost of the special education cooperative for each school year shall be paid by the participating school corporations and charter schools in accordance with the terms of their agreement. Agreements for the payment of the cost of the special education cooperative may:

- (1) establish a formula for payments that meet the needs of the participating school corporations and participating charter schools; or
- (2) base payments on a percentage share formula.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.8.*

#### **IC 20-35-5-7**

##### **Termination of agreement**

Sec. 7. Upon the termination of the agreement, the participating school corporations and charter schools shall be liable for their respective portions of any long term lease or other long term obligations in the same annual portions as are provided in the agreement as though the agreement had not been terminated, unless the terms under which the obligations were set up provide otherwise.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.9.*

#### **IC 20-35-5-8**

##### **Employment of teachers**

Sec. 8. A special education cooperative may employ teachers and issue teaching contracts in accordance with all the provisions for public teaching contracts. A teacher who has taught or is teaching in a participating school corporation who became or becomes a teacher in the special education cooperative retains semipermanent, permanent, or nonpermanent status in the participating school corporation to the same extent as if the teacher had continued teaching in the participating school corporation, and the teacher's employment may be terminated solely by the board of managers of the special education cooperative.

*As added by P.L.1-2005, SEC.19.*

#### **IC 20-35-5-9**

##### **Rights and privileges of teachers in participating school corporation**

Sec. 9. A teacher who:

- (1) is employed by a special education cooperative; and

(2) previously taught in a participating school corporation; retains all rights and privileges under IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and IC 20-28-10 to the same extent as if the teacher had continued teaching in the participating school corporation.

*As added by P.L.1-2005, SEC.19. Amended by P.L.90-2011, SEC.47.*

#### **IC 20-35-5-10**

##### **Rights and privileges of teachers without existing service in participating school corporation**

Sec. 10. A teacher who:

(1) is employed by a special education cooperative; and

(2) does not have existing years of service in any of the participating school corporations;

shall be considered to be employed by the special education cooperative and is entitled to the same rights and privileges under IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and IC 20-28-10 as if the teacher were employed by a school corporation.

*As added by P.L.1-2005, SEC.19. Amended by P.L.90-2011, SEC.48.*

#### **IC 20-35-5-11**

##### **Teacher recall lists**

Sec. 11. If a teacher loses the teacher's job in a special education cooperative due to:

(1) a reduction in services of;

(2) a reorganization of;

(3) the discontinuance of; or

(4) a withdrawal in whole or in part of a participating school corporation from;

the special education cooperative, the teacher shall be added to the recall list of laid off teachers that is maintained by the participating school corporations, and the teacher shall be employed under the terms of the recall provisions of the participating school corporations for a special education job opening that occurs in any of the participating school corporations. In addition and during the time the former special education cooperative teacher is entitled to remain on the recall list, all teachers in the participating school corporation other than the former special education cooperative teacher retain all rights and privileges for job openings for which the other teachers are qualified and as granted by the collective bargaining agreement in effect at the participating school corporation or, if no provisions of a collective bargaining agreement govern the rights and privileges, by the policy of the governing body, including provisions governing layoffs and recall.

*As added by P.L.1-2005, SEC.19.*

#### **IC 20-35-5-12**

##### **Rights and privileges of laid-off teacher**

Sec. 12. If:

(1) a teacher loses the teacher's job in a special education

cooperative due to:

- (A) a reduction in services of;
- (B) a reorganization of;
- (C) the discontinuance of; or
- (D) a withdrawal in whole or in part of a participating school corporation from;

the special education cooperative; and

(2) the teacher is employed by a participating school corporation as described in section 11 of this chapter;

the teacher retains the rights and privileges under IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and IC 20-28-10 that the teacher held at the time the teacher lost the job in the special education cooperative as described in subdivision (1).

*As added by P.L.1-2005, SEC.19. Amended by P.L.90-2011, SEC.49.*

### **IC 20-35-5-13**

#### **Fiscal accountability**

Sec. 13. A special education cooperative may:

- (1) be attached to a participating school corporation that has responsibility for administrative and financial controls; or
- (2) establish a separate treasury with separate accounts.

If a special education cooperative is not attached to a participating school corporation, it must comply with the state board of accounts' approved forms and rules for fiscal accountability and is subject to audit by the state board of accounts.

*As added by P.L.1-2005, SEC.19.*

### **IC 20-35-5-14**

#### **Board of managers**

Sec. 14. A special education cooperative may be operated and managed and its budget determined by a board of managers. The board of managers consists of members as determined by agreement between the parties.

*As added by P.L.1-2005, SEC.19. Amended by P.L.38-2014, SEC.10.*

### **IC 20-35-5-15**

#### **Meetings**

Sec. 15. Meetings of the board of managers shall be held in accordance with IC 20-26-4-3.

*As added by P.L.1-2005, SEC.19. Amended by P.L.231-2005, SEC.47; P.L.1-2006, SEC.336.*

### **IC 20-35-5-16**

#### **Organization**

Sec. 16. The special education cooperative may be organized in accordance with IC 20-26-10 or IC 36-1-7.

*As added by P.L.1-2005, SEC.19.*

### **IC 20-35-5-17**

#### **Teachers; discontinuance of special education cooperative**

Sec. 17. (a) A teacher who:

(1) has not retained a status as a semipermanent, permanent, or nonpermanent teacher with a participating school corporation; and

(2) loses the teacher's job in a special education cooperative because of a reduction in services or discontinuance of the cooperative;

shall be considered for any job opening for which the teacher is qualified that occurs in any of the participating school corporations in the school year immediately following the reduction in services or discontinuance of the cooperative.

(b) A teacher employed under this section has the same rights and privileges as teachers employed under IC 20-26-10-5 and IC 20-26-10-6.

*As added by P.L.1-2005, SEC.19.*